MASCOT SILVER-LEAD MINES, INC.

IBLA 81-373 Decided April 16, 1981

Appeal from the decision of the Idaho State Office, Bureau of Land Management, declaring mining claims I MC 42469 through I MC 42475 abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

   The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Mining Claims: Assessment Work

   Evidence of assessment work must be delivered to and received by the proper Bureau of Land Management office by the due date in order to be timely filed. Depositing a document in the mails does not constitute filing.

3. Notice: Generally--Regulations: Generally--Statutes

   All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Ronald E. Eggart, Secretary-Treasurer, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Mascot Silver-Lead Mines, Inc., has appealed the decision of the Idaho State Office, Bureau of Land Management (BLM), declaring unpatented quartz mining claims known as The Doozy, The Little Doozy, Bettsy P., Ann R., Blende, J. I. C., and Kingfisher, (I MC 42469 through I MC 42475) 1/ abandoned and void for failure to file timely evidence of assessment work on or before December 30, 1980. BLM had received appellant's submission on January 2, 1981.

In its statement of reasons, appellant urges that it mailed the required evidence of assessment work on December 29, 1980, and that all other Government agencies with which it has dealt accept the date of postmark as the critical date for timely filing. Appellant contends that BLM's inconsistent regulation results in considerable expense and time wasted in relocating the claims and that the filing requirement is a duplication of notification since assessment work for the claims was already permanently recorded with the county. Finally, appellant suggests that the BLM requirements are not generally understood, citing as evidence its belief that the due date was December 31 of each year.

[1, 2, 3] Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work for the claim with BLM within the 3-year period following that date and prior to December 31 of each year thereafter. The corresponding Departmental regulation 43 CFR 3833.2-1(a) reads:

> (a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, which ever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

1/ Mining claims I MC 42469 through I MC 42472 are collectively known as the Little Doozy Group. Mining claims I MC 42473 through I MC 42475 and the Little Chief Millsite (I MC 42476) are known as the Little Pittsburg Group. The millsite is not at issue herein.

Appellant's submission also referenced the Cougar Group of mining claims. The BLM decision indicated that BLM was unable to locate these claims and they are also not appealed herein.

Failure to so file is considered conclusively to constitute abandonment of a claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4.

BLM regulations clearly state that depositing a document in the mails does not constitute filing. 43 CFR 1821.2-2(f). See also 43 CFR 3833.1-2. The fact that other Federal agencies have different procedures or that appellant may not have understood the filing requirements does not excuse it from compliance. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). This Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. __ (1981); Glen J. McCrorey, 46 IBLA 355 (1980).

Therefore pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

C. Randall Grant, Jr.
Acting Administrative Judge

Bruce R. Harris
Administrative Judge